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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

9333/351

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on November 24, 2006

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David H. Bluestone

Application Number

10/648,067

Filed

08/25/2003

First Named Inventor

Keizo Suzuki

Art Unit

3661

Examiner

Cuong Nguyen

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 44,542

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

David H. Bluestone

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Telephone number

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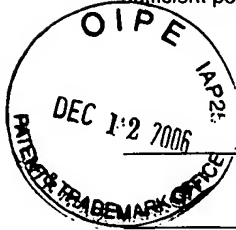
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☒ *Total of 3 forms are submitted.

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A handwritten signature in black ink, appearing to be "D. Bluestone".

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Our Case No. 9333/351

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Keizo Suzuki

Serial No.: 10/648,067

Filing Date: August 25, 2003

For METHOD AND APPARATUS FOR
DISPLAYING NAVIGATION
INFORMATION

Examiner: Cuong Nguyen

Group Art Unit No. 3661

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated September 25, 2006, Applicant requests review of the final rejection in the above-identified application. As explained in detail below, this review is being requested because of clear errors in the Examiner's rejections, and the Examiner's omission of essential elements needed for a prima facie rejection.

A Notice of Appeal accompanies this Request.

REMARKS

Claims 1-4 and 6-18 are pending, including independent claims 1 and 13. The Examiner rejected pending claims 1-4, 6-8, 13, 15, and 18 pursuant to 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,230,098 ("Ando"), in view of U.S. Patent No. 6,336,073 ("Ihara"). The Examiner similarly rejected claims 9-12, 14, and 16-17 in view of Ando, Ihara, and Official Notice. The most recent listing of claims is provided in Applicant's June 26, 2006 Amendment and Response.

As background, Applicant's invention addresses the problems arising from the updating of point-of-interest ("POI") information used in vehicle navigation systems. (See Application, e.g., at ¶¶ 6-8.) Vehicle navigation systems typically use POI difference data to update the navigation system database. (See *id.*, at ¶ 6.) Because all POI information is not updated at the same time, a user of a vehicle navigation system may or may not be using current POI information. (See *id.*, at ¶ 8.) Applicant's invention improves upon the prior art navigation systems by enabling the *user* to assess the reliability of POI information. (See *id.* at ¶¶ 9-10.) In particular, Applicant's invention provides ways for presenting "freshness information" on the vehicle navigation system display. (See independent claims 1 and 13.)

"Freshness information" is a separate item of information that is displayed for the user, and which relates to the reliability of the POI information in the database. (See *id.*) For example, in one embodiment the freshness information is displayed on a screen by way of the character strings "guaranteed" or "not guaranteed," accompanied with the identification whether the POI information is "new." (See Fig. 5.) In another embodiment, the freshness information is displayed in the form of a reliability scale that ranges from "low" to "high" with the option of indicating whether the information is "new." (See Fig. 6.) Further still, other embodiments may incorporate the date upon which the data for a particular POI was updated. (See Fig 10.)

Applicant respectfully contends that the Examiner has failed to state a *prima facie* case of obviousness because the cited references do not teach or suggest "freshness information." As discussed below, Applicant amended the claims to clarify that "freshness information" is an indicator of the reliability of the data, and not merely the most current data itself. For example, the freshness information can be an indicator

that tells the user how reliable the POI data is for a given location; it is not simply the most recent POI data itself. Applicant believes that the Examiner's rejections are improper in view of the clear language of the claims and the support in the specification.

In the first substantive office action, the Examiner rejected the claims based on the Ando reference. (12/17/2004 Office Action, at 2, 4, 5.) In response, Applicant traversed the rejection explaining that the Ando reference deals with the use of differential data, not the display of freshness information. (03/21/2005 Response, at 2.)

The Examiner then issued a final rejection. (08/26/2005 Office Action.) In response, Applicant explained:

“Freshness information” is claimed, not “fresh information.” Just as the date printed on a milk carton is different from the milk itself, freshness information is different from the data to which it relates. Freshness information tells the user about the reliability of the segment of data, it is not that segment of data itself.”

(10/25/2005 Response, at 2.) The Applicant further discussed how “freshness information” was consistently applied in this manner in the specification and the drawings. (*Id.*) An advisory action followed in which the Examiner maintained the rejections. (11/25/2005 Office Action.)

Applicant next filed a Request for Continued Examination. (01/24/2006 Request for Continued Examination.) In response, Applicant received a non-final office action in which the Examiner argued that the claims 1-8, 13 and 15 were obvious in view of Ando and Ihara, and that claims 9-12, 14, and 16-17 were obvious in view of Ando, Ihara, and Official Notice. (04/06/2006 Office Action, at 2-5.)

In the Examiner's April 6, 2006 Office Action, the Examiner thanked Applicant for the “clear definition of ‘freshness information,’” but nonetheless concluded that “a definition for ‘freshness information’ is merely most-recent updated information for use, since that information is the most reliable.” (*Id.* at 2.)

In this office action, the Examiner also asserted that Ihara uses the phrase “freshness information.” Ihara does not use this phrase. Instead, Ihara uses the phrase “freshness of information” in two instances. (See col. 12, line 16 (discussing the prioritization of the “freshness of information”); col. 18, lines 40-42 (discussing how the

processor selects data by “giving priority to the freshness of the data.)) In those instances, Ihara is addressing the internal ranking of data according to its freshness. Ihara not does address displaying of “freshness information” for a user.

On June 19, 2006, an interview with the Examiner was conducted. During the interview, Applicant’s representative addressed the “freshness information” issue with the Examiner. During the call, Applicant’s representative reached an agreement with the Examiner in which claim 1 would be amended to include the phrase, “wherein freshness information comprises a data string that corresponds to a reliability assessment for location data stored in the database” and claim 13 would also be amended to clarify “freshness information.” (06/26/2006 Response, at 5) (documenting interview with Examiner).

On June 26, 2006, Applicant amended the claims pursuant to the agreement with the Examiner. Claim 1, as presently pending, defines “freshness information” as comprising “a data string that corresponds to reliability assessment for location data stored in the database.” (06/26/2006 Amendment, at 2.) Claim 13, as presently pending, defines “freshness information” as “a visual indication representative of the reliability of the navigation information displayed for the location.” (06/26/2006 Amendment at 3-4.) Notwithstanding the agreement between the Examiner and the Applicant, the Examiner issued a final office action rejection stating, “the examiner again respectfully submits that in this computer age, “freshness information is merely most-recent updated information for use,” since that information is the most reliable.” (09/25/2006 Office Action) (emphasis in original).

Applicant respectfully contends that the Examiner’s September 25, 2006 Office Action fails to set forth a prima facie rejection for the claims because the Examiner has failed to apply the claims as amended. As presently presented, the claims preclude the Examiner from interpreting “freshness information” as “merely most-recent updated information for use.” (09/25/2006 Office Action, at 2.) The claims have been amended pursuant to an agreement with the Examiner such that this definition is not applicable.

Applicant submits that the Office Action fails to set forth prima facie rejections for the claims of the application. Accordingly, Applicant respectfully requests a finding that the application is allowed on the existing claims.

Respectfully submitted,



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